

LETITIA JAMES
ATTORNEY GENERAL

STATE
OFFICE OF THE

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Application granted.

The Clerk of the Court is respectfully directed to terminate the motion sequence pending at Doc. 79.

SO ORDERED.

Philip M. Halpern
United States District Judge

Dated: White Plains, New York
October 19, 2021

COUNSEL
REAU

Via ECF

The Honorable Philip M. Halpern
United States District Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Murtha v. New York State Gaming Commission et al.*, No. 17-cv-10040 (PMH)

Dear Judge Halpern:

The Office of the Attorney General represents defendants Brian Barry, in both his individual capacity and his official capacity as Director of Racing Officials for the New York State Gaming Commission, Dr. Stephanie Wolf, in her individual capacity, and Thom Kotarski, in his individual capacity (together, "Defendants") in the above-referenced matter. We write pursuant to Your Honor's Individual Rules 5(B) to request permission from the Court that a document relating to Plaintiff's medical records be filed under seal.

Defendants today have filed their Motion for Summary Judgment. Attached to the Amended Declaration of Rene F. Hertzog, dated June 14, 2021 (ECF Doc. No. 69), Exhibit 17 includes medical information of Plaintiff James Murtha. The document was produced by Defendants in this action from the New York State Gaming Commission's records. A redacted copy of this exhibit was filed today. ECF Doc. No. 69-15. The Court previously granted the sealing order for redactions made to paragraph 100 of the Rule 56.1 Statement of Facts on the basis that the text redacted cited to or summarized this exhibits. ECF Doc. No. 63. The undersigned conferred with Plaintiff's counsel to assess the need for protecting this information from public viewing, and Plaintiff has confirmed that he desires that this document be filed under seal.

Medical records are of the type of document warranting caution before being placed on the public docket. See, e.g., Valentini v. Group Health Incorporated, 2020 WL 7646892, 20-CV-9526 (JPC), at *2 (S.D.N.Y. Dec. 23, 2020). Defendants have narrowly tailored the request by partially redacting the sensitive information within the document. See, e.g., Lugosch v. Pyramid Co. of Onondaga, 435 F.3d 110, 119-20 (2d Cir. 2006). As required by Your Honor's Individual

Hon. Philip M. Halpern
June 14, 2021

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Rules, Rule 5(B), Defendants are also filing the unredacted document under seal.

Thank you for your assistance in this matter.

Respectfully submitted,

/s/ Rene F. Hertzog
Rene F. Hertzog
Assistant Attorney General

cc: **Via ECF**
Counsel of Record